

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re

Date: **9/20/17 @ 9:30**

Margaret A. Trusch Boyko
aka Margaret A. Trusch
aka Margaret A. Boyko

Chapter 7

Case No.: 8-17-71300-reg

Debtors.
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NOTICE OF MOTION TO AVOID JUDICIAL LIENS

S I R S / M A D A M:

PLEASE TAKE NOTICE, that upon the annexed Affidavit dated May 19, 2017 of Margaret A. Trusch Boyko, by her attorneys Macco & Stern, LLP, the undersigned will move this Court before the Honorable Robert E. Grossman, Bankruptcy Judge, on the 20th day of September, 2017, at 9:30 a.m. at the United States Bankruptcy Court, Long Island Federal Courthouse, Room 860, 290 Federal Plaza, Central Islip, New York 11721 or as soon thereafter as counsel can be heard, for an Order pursuant to 11 USC Section 522(f), avoiding the judicial liens of CACH LLC (2), Portfolio Recovery Associates LLC and Capital One Bank USA NA, together with such other and further relief as this Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE, that objections, if any, to the proposed Order must be in writing and filed with the Clerk of the Court, United States Bankruptcy Court, Eastern District of New York, 290 Federal Plaza, Central Islip, New York 11722 (a)(i) through the Bankruptcy Court's electronic filing system (in accordance with General Order M-242), which may be assessed (with password which is available by

contacting the Bankruptcy Court's technical assistance at 631-712-6200, Monday through Friday, 8:30 a.m. to 5:00 p.m.) through the Internet at the Bankruptcy Court's website: www.nyeb.uscourts.gov using Netscape Navigator software version 3.0 or higher, and (ii) in portable document format (PDF) using Adobe Exchange software for conversion; or (b) if a party is unable to file electronically, such party shall submit the objection in PDF format on a diskette in an envelope with the case name, case number, type and title of document, document number of the document to which the objection refers, and the file name on the outside of the envelope; or (c) if a party is unable to file electronically or use PDF format, such party shall submit the objection on a diskette in either Word, WordPerfect, or DOS text (ASC II) format. An objection filed by a party with no legal representation shall comply with section (b) or (c) as set forth in this paragraph. A hard copy of the objection, whether filed pursuant to section (a), (b) or (c), as set forth in this paragraph, shall be hand-delivered directly to the Chambers of the Honorable Robert E. Grossman, and served so as to be received by Macco & Stern, LLP, 2950 Express Drive South, Suite 109, Islandia, New York 11749, no later than September 13, 2017.

PLEASE TAKE FURTHER NOTICE, that answering papers if any, shall be filed with this Court, and served upon the undersigned within three (3) days of the return date of this motion.

Dated: Islandia,
June 28, 2017

MACCO & STERN, LLP
Attorneys for Debtor

BY: 

Cooper J. Macco
2950 Express Drive South, Suite 109
Islandia, New York 11749
(631)549-7900

To: *Office United States Trustee*
Kenneth P. Silverman, Esq.
Arrow Financial Services LLC/GE Money Bank.
Forster & Garbus, Esqs.
Orthopedic Assoc. of Manhasset, PC
Maidenbaum & Assoc., PLLC

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AFFIDAVIT IN SUPPORT OF MOTION TO AVOID JUDICIAL LIENS

Cooper J. Macco, being duly sworn, deposes and says:

1. That I am the attorney for Margaret A. Trusch Boyko, who filed a petition for relief under Chapter 7 of the Bankruptcy Code on March 6, 2017, and as such am completely familiar with the facts and circumstances involved herein.

2. The debtor owns a residence 868 Bromton Drive, Westbury, NY 11590.

Annexed hereto as Exhibit A is a copy of the Deed. This property had a fair market value as of the date of filing of no greater than \$525,000. Annexed hereto as Exhibit B is a copy of the appraisal of the property dated June 26, 2017, the date of this motion, in the amount of \$554,000.

3. This property is subject to a mortgage with Wells Fargo with a balance in the amount of approximately \$339,918.74. The property is also subject to a home equity loan with Wells Fargo Home Equity with a balance of approximately \$205,856.83. Annexed hereto as Exhibit C is a copy of my client's most recent mortgage statements.

4. Pursuant to 11 USC Section 522(d)1 the debtor is entitled to a Homestead Exemption of \$11,837.50 and same is listed in debtors' Schedule C, property claimed as exempt.

5. This property is subject to certain judicial liens as follows: Arrow Financial Services LLC/A/P/O GE Money Bank, recorded March 30, 2010 in the sum of \$10,517.55 and Orthopedic Associates of Manhasset, PC, recorded February 19, 2015 in the sum of \$8,567.51. Annexed hereto as Exhibit D is a copy of the Judgments.

6. 11 U.S.C. Section 522(f)1 states in pertinent part as follows: "...the debtor may avoid the fixing of a lien on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled...if such lien is (a) a judicial lien..."

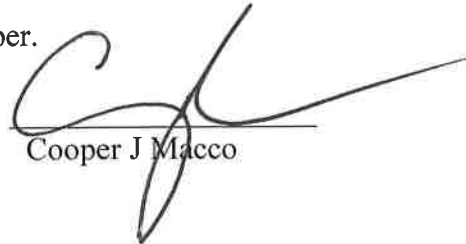
7. The aforementioned liens impair the debtor's exemption to which the debtor would be entitled under CPLR Section 5206.

8. The aforementioned judicial liens are not of a kind that is specified in Section 523(a)5.

9. The math calculations as to the impairment of my client's exemption is as follows:

Fair market value of residence	554,000.00
Less mortgage of Wells Fargo	339,918.74
Less Home Equity Loan with Wells Fargo	205,856.83
Remaining Equity	8,224.43
Less Homestead Exemption of debtor	11,837.50
Net Equity for Judgment Creditors	-0-

WHEREFORE, it is respectfully requested that the aforementioned judicial liens be avoided and that the Clerk of the Court remove said judgments as of record upon the filing of a certified copy of the Bankruptcy Court Order, together with such other and further relief as this Court deems just and proper.



Cooper J Macco

Sworn to before me this
28th day of June, 2017

/s/ Janine M. Zarrilli

Notary Public

Janine M. Zarrilli

Notary Public, State of New York

No. 01ZA5084708

Qualified in Nassau County

Commission Expires September 8, 2017

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Chapter 7

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AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF SUFFOLK)

Margaret A. Trush Boyko, being duly sworn, deposes and says:

1. I am the Chapter 7 debtor.
2. I have reviewed all the information and representations made by my
counsel on this Application to avoid the Judicial Lien of the judgment creditors because
these judicial liens impair my exemption.
3. The information contained in the Application of my counsel is true and
accurate to the best of my knowledge, information and belief.

Margaret A. Trusch Boyko
Margaret A. Trusch Boyko

Sworn to before me this
28 day of June, 2017

Michael J. Tanzi
Notary Public

